

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BETH AMENDOLA, on behalf of herself	:
and others similarly situated,	:
	:
Plaintiffs,	:
	:
v.	:
	:
BRISTOL-MYERS SQUIBB COMPANY,	:
and Does 1 through 20, inclusive,	:
	:
Defendant.	:
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07 CV 6088 (DLC)

(ECF CASE)

DECLARATION OF
ANDREA R. SAEGER

ANDREA R. SAEGER, declares, pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am an Executive Territory Business Manager (“TBM” or “Sales Representative”) in the Neuroscience business division for Bristol-Myers Squibb Company (“BMS”). I have been with BMS since September 1990, and have been in the Neuroscience division since 2003. Prior to 2003, I was in the Cardiovascular-Metabolics division.
2. I am currently in the North Atlantic Region and I represent the Trenton, New Jersey Territory, along with one other representative (my “Pod” partner).
3. I work out of my home and my car.
4. My job is to increase prescriptions in my territory and thereby drive market share of my products.
5. I call on (visit) private physician offices as well as on hospitals and community mental health centers, in order to promote the pharmaceutical products Abilify and Emsam.

6. When I call on hospitals or mental health centers, in addition to physicians, I also call on “treatment team” members such as nurses, nurse practitioners, and social workers. I call on them because they are an integral part of the treatment process. I also want to insure that they are educated and well-informed about my products, because they can oftentimes influence or have an effect on a physician’s prescribing practices.

7. The expectation is that I average 8.5 calls per day, whether to private offices, hospitals, or both. Some days I make more calls, other days I may make less, depending on the particular circumstances. It is entirely up to me how many calls I make each day, although I always try to hit at least 8.5 on average so that I can maximize sales and drive market share.

8. At the beginning of each quarter, I receive a draft Call List of somewhere between 150 and 200 doctors, which also contains a target number for how many times I should call on those doctors in the next quarter. I then sit down with my Pod partner and my manager (in what is called a “BET” session) and we are able to adjust the target number we think we should visit each doctor in the next quarter, keeping in mind the target number that BMS has provided. We make these decisions based on our knowledge of the territory, our knowledge of the individual physicians, and our analysis of the sales and prescription data that BMS provides us. Over the past few years, my managers have generally accepted what we recommend.

9. In addition, throughout the year I add new doctors onto the Call List (via the Call Max system), and can also manually remove them from the system. I am permitted to call on doctors that I add to the system, and indeed, do call on them. At the next BET session, it is my responsibility to make sure that they are officially added into the database.

10. Before each call, I engage in “pre-call planning.” Sometimes I do this the

night before, sometimes the morning before a call, and sometimes during the day. It is entirely up to me when I plan for each call, and how to plan. I typically spend about 5 minutes planning for each call. First I set my schedule for the next day and decide who I am going to call on. Then, I look at the sales numbers and prescription rates from the doctors I am going to call on, and analyze that data, along with notes from prior calls, in order to come up with an approach to each call.

11. Every sales call is different and unique. While my end-goal is to “close” the doctor and gain a commitment to prescribe one or more of my products where appropriate, I often work towards that goal gradually. For each doctor, the goal that I set depends on the particular circumstances of the call, the doctor’s needs, the doctor’s patient population, and the doctor’s prescription history. It is entirely up to me to decide what commitment to seek. For instance, with some doctors, I might first try to get a commitment to read a clinical re-print about one of my products. With other doctors who are more familiar with Abilify, I might get them to commit to prescribing the product for one of its FDA indications (i.e., for bi-polar disorder). And for doctors who are already prescribing Abilify, I might get them to commit to using it for an additional FDA approved indication, such as adjunctive therapy in major depressive disorder.

12. On some sales calls, I distribute samples of my products to the doctor or facility that I visit. It is entirely up to me how to distribute the samples, whether to distribute the samples, and how many samples to give out, within federal regulations. Often, this involves some negotiation with the doctor based on my understanding of their prescribing practices and patient needs.

13. I am provided with a wide variety of promotional materials pertaining to my products. It is also up to me whether or not give out promotional materials (such as a visual

aid or re-print of a clinical study), and if so, which ones. I make this decision based on what I am planning on talking about with the particular doctor, what is relevant on the particular call, and the direction of the call.

14. I also conduct promotional programs presented over breakfasts, lunches and/or dinners, including speaker programs. I am provided with a budget for these programs, and I decide whether or not to conduct a program, what program I am going to conduct, when, where, who will be invited, and, if there is a speaker, who that speaker will be. I choose the speaker from a large, pre-approved list of local and national speakers. I make these decisions to conduct these programs in order to inform and educate the customers in my territory, and ultimately, to drive sales of my products.

15. While I am expected to discuss certain “black box warnings” about my products during a call, I am not provided with any scripts, and each sales call is unique. I try to follow the ENGAGE selling skills model – which means trying to “open” the doctor, convey a promotional message, “probing” the doctor with questions, providing safety information, and ultimately “closing” the doctor with a request for a commitment – but the model itself is meant to be flexible and allows me to tailor each sales call to achieve my goal.

16. Recently, I was a “class advisor” for a Track 2 training course for new-hires in Neuroscience. I attended the training program as an experienced sales representative and in order to mentor and teach new representatives about how to conduct sales calls. I spent two weeks in New Jersey providing feedback, performing model sales calls, and watching the new representatives role play.

17. I have had a great number of District Business Managers (“DBMs”) over the years, and each one had their own supervisory style and practice. Some checked up on me,

others did not at all. On average, I have found it to be more common to have a manager who does not regularly check up on me. Currently, I have a brand new manager who I only just met a few months ago, and I have had very little contact with her otherwise. Typically, I exchange voice messages with my DBMs, but I don't talk to them live every week.

18. Similarly, while my DBMs typically go on a "ride-along" with me about once per month to observe my sales calls, every manager is different. Some might want me to hit all of the key points of ENGAGE, while others are only interested in the final result of the sales call and how I interacted with the doctor.

19. I have earned over \$100,000 in combined salary and incentive compensation in each of the last three years. For example, my current base salary is \$102,000 and my "target" incentive compensation is \$24,000.

20. My incentive compensation is generally based on total sales and/or sales growth in my territory, and it can vary from year to year. For example, this year, incentive compensation is based on sales growth of my territory, whereas last year it was based on a total dollarized sales goal for my territory. The more that I drive sales in my territory, the more incentive compensation that I can earn.

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I declare, under penalty of perjury, that the foregoing is true and correct.

Executed on February ____, 2008



ANDREA R. SAEGER